

Mark C. Hoyt, OSB No. 923419
mark@shermlaw.com
Justin M. Thorp, OSB No. 974154
justin@shermlaw.com
SHERMAN SHERMAN JOHNNIE & HOYT LLP
693 Chemeketa Street NE
Salem, Oregon 97301
Telephone: 503-364-2281
Facsimile: 503-370-4308

Louis D. Lopez (*Admitted Pro Hac*
in Case No. 3:19-cv-00615-MO)
llopez@fclaw.com
Philip L. Brailsford (*Admitted Pro Hac*
in Case No. 3:19-cv-00615-MO)
pbrailsford@fclaw.com
FENNEMORE CRAIG, P.C.
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016
Telephone: 602-916-5000
Facsimile: 602-916-5999

Attorneys for Plaintiff
Southwest Behavioral & Health Services, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

SOUTHWEST BEHAVIORAL & HEALTH
SERVICES, INC., an Arizona corporation,

Plaintiff,

v.

ENSOFTEK, INC., an Oregon corporation,

Defendant.

Case No. 3:19-cv-01528-MO

**██████████ ORDER GRANTING
UNOPPOSED MOTION TO DISMISS
WITHOUT PREJUDICE**

ORDER

Based on the foregoing unopposed motion to dismiss without prejudice and the parties' stipulation, good cause appearing,

IT IS ORDERED that Case No. 3:19-cv-01528-MO (formerly Case No. CV2019-006488 and Case No. 2:19-cv-03398-MHB) and all pending motions to the Arizona Suit shall be dismissed without prejudice.

IT IS FURTHER ORDERED that except for defenses that existed at the time that SBHS filed its original complaint (the Arizona Suit), EnSoftek will not assert the defense of res judicata, claim preclusion, issue preclusion, estoppel, failure to assert a compulsory counterclaim, or similar procedural defenses to SBHS's counterclaim in the Oregon Suit. The timeliness of claims or the validity of a statute of limitations (or laches) defense will relate back to the filing date of the claims of the Arizona Suit.

IT IS FURTHER ORDERED, that attorney's fees and costs accrued in the Arizona Suit will be decided at the conclusion of the Oregon Suit (Case No. 3:19-cv-00615-MO), if appropriate.


The Honorable Michael W. Mosman

10/7/19